

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First named inventor: Robert J. Bengtsson

Docket No. 02-0222

Serial No.10/628,745

Filed: July 28, 2003

Examiner: J. Stokely-Collins

Art Unit: 2423

Title: APPARATUS FOR PROCESSING DIGITAL IMAGES

Confirm. No. 4048

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants request review of the final rejection mailed 17 August 2010 in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reasons stated in the attached sheets.

A petition for a ONE month extension of time is included. The office action set a three month shortened statutory period for response. The extended period for response expires on Dec. 17, 2010.

Respectfully submitted,

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Date: Dec. 17, 2010

REMARKS

Claim 7 is cancelled.

Claims 1-6 and 8-21 are pending and rejected.

The final office action dated 17 August 2010 indicates that base claims 1 and 18 are rejected under 35 USC §103(a) as being unpatentable over Brady U.S. Patent No. 7,114,171 in view of Furon U.S. Publication No. 20020078458 and newly cited Frey U.S. Patent No. 6,369,908. The ‘103 rejection of base claims 1 and 18 is based on legal and factual deficiencies.

Base claim 18 recites an aircraft comprising a fuselage having a passenger cabin, and a plurality of passenger seats mounted within the cabin. At least one of the seats comprises:

a seat frame;

a video monitor mounted on the seat frame; and

a digital processor operatively connected to the video monitor for processing a digital input for display as an image on the video monitor, the digital processor programmed with image editing software for allowing a passenger to add new image content to any one or more images from the digital input.

Airline companies have long sought ways of keeping passengers occupied during long flights. The passenger seat of claim 18 provides a form of in-flight entertainment for those passengers who don’t travel with their notebooks or don’t want to unpack their notebooks. Moreover, the passenger seat of claim 18 makes it more convenient to edit images than a notebook, since the frame-mounted video monitor doesn’t occupy a tray table or a passenger’s lap.

None of the cited documents teach or suggest image editing as a form of in-flight entertainment. Only Brady relates to aircraft in-flight entertainment, but it only describes conventional in-flight entertainment, such as movies and music.

Brady discloses an In-Flight Entertainment (IFE) system including a line replaceable unit (LRU) 100 mounted in close proximity to a seat 750 and connected

between a user interface 200 and a network 1500 (see Fig. 1a). The LRU 100 provides audio to a passenger. An LRU 150 may provide video to an optional display 650 mounted to a seat back 700 (see Figure 1b). A network server 450 may be located on the LRU 150 (col. 9, lines 3-6). The server 450 presumably serves video to the display 650.

The LRU 100 “is, in an embodiment, a seat electronics box 2160” (col. 8, lines 57-59). The seat electronics box 2160 allows a passenger to connect a laptop computer into the network for reasons that are unclear (col. 15, lines 18+).

Brady does not teach or suggest that the laptop is connected to the optional display. Brady does not teach or suggest a means for editing the video.

In any event, Brady does not teach or suggest an image editing processor that is part of a passenger seat. The final office action does not address this feature. It cites a passage at column 9, lines 39-42. However, this passage only describes a digital server unit 2500 or an audio/video controller 2120. Figure 2a shows both units 2500 and 2120 as being remotely located from the seat electronic box 2160.

More generally, Brady does not teach or suggest an in-flight entertainment system that allows passengers to perform image editing. Page 5 of the final office action appears to acknowledge this much.

The other two documents are silent about image editing as in-flight entertainment. Furon and Frey both relate to kiosks for printing images. Furon is concerned with uploading digital images from a car to a remote kiosk (see Figure 1). Frey is concerned with recoding images at a kiosk and sending the recorded images as e-mail attachments (col. 2, lines 29-37).

Furon and Frey are both silent about a passenger seat comprising an image editing processor. Furon describes a multimedia console 8 that is located in the dashboard of a transportation vehicle such as a truck, bus or car (paragraph 17 and Figure 2). The multimedia console 8 accepts images from an external source such as

a digital camera or server 1, and is equipped with an image processing program that can zoom in on, rotate, or otherwise transform an original image. The image processing program allows a user to select images for reconstitution or, what page 7 of the office action refers to as “image work.” The multimedia console 8 also prompts the user to select a desired fixed kiosk 5, and it transmits the selected images to the selected fixed kiosk 5. Furon describes image reconstitution as printing the images, burning a CD or otherwise transferring the images to a physical medium (see paragraph 23). Image reconstitution is performed at a fixed kiosk 5, not a multimedia console 8 (paragraph 23).

Frey describes a kiosk that can record images and send the recorded images as e-mail attachments. Frey’s kiosk allows messages to be added to the images (col. 4, lines 1+)

Furon and Frey are silent about image editing as in-flight entertainment, and they do not suggest a vehicle passenger seat including an image editing processor. Thus, the combined teachings of Brady, Furon and Frey do not produce an aircraft having all of the features recited in claim 18. Due to these factual deficiencies, the ‘103 rejection of claim 18 should be withdrawn.

As for legal deficiency, the record does not suggest modifying Brady’s IFE to perform image editing. Rather than determining whether the invention on the whole is obvious, the final office action only determines whether the differences between claim 18 and Brady are obvious. This is legal error.

According to MPEP 2141.02, “In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious.” Stratoflex, Inc. v. Aeroquip Corp., 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); Schenck v. Nortron Corp., 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983).

The final office action notes that Brady does not describe image editing. So it cites Furon. Then the final office action notes that neither Brady nor Furon describes image editing software that adds image content. So it cites Frey. The final office action never explains why it would be obvious on the whole to (1) add image editing as entertainment in Brady's in-flight system, and (2) provide a passenger seat comprising an image editing processor. For this legal deficiency alone, the '103 rejection of claim 18 should be withdrawn.

The '103 rejection should be withdrawn for an additional legal deficiency: a lack of articulated reasoning to support a '103 rejection. Pages 5-6 of the final office action alleges:

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the capabilities of Furon's multimedia console in the in-flight entertainment system taught by Brady in order to allow a user to organize and edit photos while traveling in a vehicle for the benefit of saving the user time and optimizing the ordering process for image work.

The allegation is little more than a conclusory statement. It assumes that an in-flight entertainment system is the only means for organizing and editing photos. It isn't. And the final office action doesn't explain how "the ordering process" is made more efficient than, say, a notebook or mobile phone.

Further, the allegation might apply to a car, but not to an aircraft. The aircraft is not going to fly to a selected kiosk. Therefore, no user time will be saved and the ordering process will not be optimized by displaying images aboard an aircraft.

At most, the final office action provides evidence that an artisan would have the requisite skill to practice the aircraft recited in claim 18. However, it does not comply with MPEP 2142 and KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385, 1395-97 (2007), in which the U.S. Supreme Court held "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of

obviousness." For this additional legal deficiency, the '103 rejection of claim 18 should be withdrawn.

Base claim 1 is more general than base claim 18 in that it isn't limited to an aircraft. Nevertheless, none of the cited documents describe a vehicle passenger seat including an image editing processor. Moreover, Furon and Frey do not provide factual underpinnings or a clear articulation for modifying Brady's in-flight entertainment system to provide image editing. Further, the '103 rejection is based only on whether the differences between claim 1 and Brady are obvious, not whether the invention as a whole is obvious. Due to these factual and legal deficiencies, the '103 rejection of base claim 1 should be withdrawn.

The final office action indicates that dependent claims 8, 19 and 20 are rejected under 35 USC §103(a) as being unpatentable over Brady in view of Furon and Frey and in further view of Brunner U.S. Publication No. 20020067424. These dependent claims recite image editing software that allows a passenger to add new image content to images supplied by an aircraft camera.

The '103 rejection is based on legal error because it does not comply with MPEP 2142 and KSR. Brunner merely describes aircraft-mounted camera systems for providing in-flight entertainment to cabin passengers (paragraph 2). Neither Brunner nor Brady suggests editing in-flight videos.

The final office action does not explain why it would be obvious for Brady's in-flight entertainment system to add image content to images supplied by an aircraft-mounted camera system. It only provides a conclusory statement of obviousness. Due to this additional legal error, the '103 rejection of claims 8, 19 and 20 should be withdrawn.

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